

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

For Online Publication Only

JAMES BATISTA,

Plaintiff,

-against-

ORDER

19-CV-5660 (JMA) (AYS)

MEDICAL DIRECTOR, Suffolk Co. Jail; DR. LING
LU, Physician S.C.J.; WARDEN, Suffolk County
Jail; and COUNTY OF SUFFOLK,

Defendants.

AZRACK, United States District Judge:

On October 14, 2019, pro se Plaintiff James Batista (“Plaintiff”) commenced this action against Defendants the Medical Director of the Suffolk County Jail (the “Jail”), Dr. Ling Lu, a physician at the Jail, the Warden of the Jail, and the County of Suffolk (collectively, “Defendants”), alleging, inter alia, that Defendants violated his civil rights, pursuant to 42 U.S.C. § 1983. Other than the filing of a complaint, Plaintiff failed to participate in this action entirely. On January 26, 2021, Judge Shields sua sponte issued a Report and Recommendation (“R&R”) recommending that Plaintiff’s complaint be dismissed with prejudice.

In reviewing a magistrate judge’s report and recommendation, the court must “make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made.” 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05-CV-5579, 2006 WL 3851152, at *2 (S.D.N.Y. Dec. 29, 2006). The court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Those portions of a report and recommendation to which there is no specific reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48,

51 (E.D.N.Y. 2008).

To date, no objections have been filed to the R&R and the deadline for filing any such objections has passed.

I have reviewed Judge Shields's R&R for clear error, and finding none, I adopt the R&R in its entirety as the opinion of this Court. Accordingly, this action is dismissed, with prejudice, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

The Clerk of the Court is directed to close this case. The Clerk is further directed to mail a copy of this Order to the pro se plaintiff at his last known address.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppededge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: May 11, 2021
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE